

JAMES R. FROCCARO, JR.
Attorney at Law
20 Vanderventer Avenue, Suite 103W
Port Washington, NY 11050
telephone: (516) 944-5062
fax: (516) 944-5066
email: JRFESQ61@aol.com

January 7, 2023

BY ECF

Hon. John P. Cronan
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Anthony Cracchiolo
22 Cr 108 (JPC)

Dear Judge Cronan:

By this letter, I am most respectfully renewing my request that Mr. Cracchiolo be permitted to participate in the upcoming status conference *via* telephone, or in the alternative, that he be excused from appearing.¹ Federal Rule of Criminal Procedure 43 provides that a defendant must be present “at initial appearance, initial arraignment, plea, every trial stage, and sentencing” - not at a status conference. See Rule 43(a)(1)-(3). Your Honor, of course, has the discretion to order that a defendant be personally present for a status conference but this is not required under the Rule. Indeed, courts routinely permit out of state defendants to be excused upon request or to participate *via* telephone. I have attached hereto for the Court’s review, a copies of ECF bounces from

¹ My prior request to Your Honor was not made pursuant to the Cares Act.

two separate cases I appeared on for conferences yesterday - one in the Southern of New York and the other in the Eastern District - wherein defendants were excused from appearing altogether or permitted to participate telephonically.

Respectfully submitted,


/JRF/

James R. Froccaro, Jr.

JRF:pa

Federal Rule of Criminal Procedure 43(b)(3) permits a defendant not to be present at a proceeding that "involves only a conference or hearing on a question of law." Because the Court expects that the January 11, 2023 proceeding will involve discussion only of scheduling matters, Mr. Cracchiolo may participate via video conferencing. Prior to the conference, Mr. Cracchiolo will be provided with a link through which he may connect at the scheduled time.

SO ORDERED
Date: January 9, 2023
New York, New York


JOHN P. CRONAN
United States District Judge